

State of Hawaii
Department of Labor and
Industrial Relations

Language Access
Plan

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Issued and Approved by
the Director Department of Labor and Industrial Relations

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, DLIR on June , 2011

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Date

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS' LIMITED ENGLISH PROFICIENCY PLAN (2011)

INTRODUCTION

The Department of Labor and Industrial Relations (DLIR) implemented the "Limited English Proficiency (LEP) Plan," a pilot program, on May 3, 2006. The DLIR has been committed to continually review and revise the plan based on recommendations from customers, interested stakeholders, employees, and the general public.

Presidential Executive Order 13 166, "Improving Access to Services for Persons with Limited English proficiency" was created to ". . . improve access to . . . federally assisted programs and activities for persons, who as a result of national origin, are limited in their English proficiency . . ." Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d ("Title VI") serves as the basis for Executive Order 13166. Title VI provides that no person shall "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Certain divisions and agencies of the State of Hawai'i Department of Labor and Industrial Relations ("DLIR) receive Federal funding from the U.S. Department of Labor and, by virtue of the funding, Title VI applies to all DLIR's operations. *See* 29 CFR parts 31.1; 3 1.2(g); and 3 1.3.

Subsequently, Act 290, SLH 2006 was enacted and codified as Part II of Chapter 371, Hawaii Revised Statutes (HRS) and became known as the Language Access law. Accordingly, DLIR seeks to implement the initiatives set forth in this Limited English Proficiency ("LEP") Plan to meet its obligations under Title VI and Chapter 371, HRS. The purpose of this LEP Plan is to take reasonable steps to ensure persons with limited English proficiency gain meaningful access to DLIR services and programs, as previously initiated in its pilot program.

Hawai'i's population reflects a rich blend of peoples and cultures. According to the 2000 census, almost 290,000 of Hawai'i's 1.2 million people speak a language other than English at home, including over 250,000 persons that speak an Asian or Pacific Island language. For many, English is not their primary language. Many have only a limited ability to read, write, speak or understand English. Language barriers often prohibit many residents from fully participating in our community and undermine efforts to become self-sufficient and productive. This LEP Plan speaks of DLIR's commitment to provide essential and meaningful access to LEP customers.

DEFINITION OF LIMITED ENGLISH PROFICIENT PERSONS/CUSTOMERS

For purposes of this LEP Plan, LEP persons or LEP customers mean individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. Such persons may be eligible to receive language assistance with respect to a particular service, benefit, or encounter.

RELEVANT FACTORS

In determining how to provide effective and meaningful access to LEP customers, the U.S. Department of Labor has established the following four guidelines (68 FR 32290, 32294 (May 29, 2003)) and subsequently found in HRS § 371-33(a) (1)-(4):

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;
2. The frequency with which LEP persons come into contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to LEP persons; and
4. The resources available to the program and the costs of providing interpretation/translation services.

The touchstone of this four-factor analysis is reasonableness--reasonableness as measured by balancing (1) the size, needs, and the nature of assistance to the LEP population served and (2) DLIR's capacity and available resources.

SUMMARY

This DLIR LEP Plan is comprised of seven (7) components:

1. Development of a reporting system designed to obtain key information about the LEP population who use DLIR services;
Each division will have in place mechanisms in its reporting system to assess, on a regular basis, the LEP status and language assistance needs of current and potential customers, as well as mechanisms to assess the Department's capacity to meet these needs according to the components of this plan.
2. Compilation of comprehensive multi-lingual listing of DLIR employees;
Interpreter list – volunteers from employee pool will be identified and updated lists distributed to the divisions and posted on DLIR's Intranet semi-annually by the Language Access Coordinator.
3. Notice of interpretation/translation services to qualified LEP customers;
Each division, program and activity at DLIR will proactively inform LEP individuals of the availability of free language assistance services.
4. Providing interpretation/translation services for qualified LEP customers;
Each division, program and activity at DLIR will arrange for the provision of oral languages assistance in response to the needs of LEP individuals, in both face-to-face and telephone encounters.
Each division, program and activity at DLIR will produce vital documents in languages other than English where a significant number of customers served or eligible to be served English proficiency (using the four-factor analysis discussed in the "RELEVANT FACTORS" section above on Page 2). These written materials may include paper and electronic documents, such as publications, notices and correspondence.

5. Designation of a LEP Plan Coordinator;
The Director of Labor and Industrial Relations will designate an LEP Plan Coordinator.
6. Training DLIR staff on the implementation of this plan; and
Each division will allow time for training front-line and managerial staff on the policies and procedures of its language assistance activities.
7. Seeking stakeholders' input; review and revision of the LEP Plan.
Each division will institute procedures to assess the accessibility and quality of language assistance activities for its LEP customers/clients. LEP Plan Coordinator will monitor assessments.

Each component will be explained below.

LEP PLAN

I. DEVELOPMENT OF A REPORTING TO OBTAIN KEY INFORMATION ABOUT THE LEP CUSTOMERS WHO USE DLIR SERVICES

In order to provide meaningful access to LEP customers, DLIR will continue to gather information about what languages they speak, what DLIR services they use, and the frequency in which they use these services.

Since 1994, DLIR has been providing telephone interpretation services to LEP customers, free of charge. Based on this long-standing practice, DLIR has retained informal statistics on the number of persons who have requested help with language interpretation. These statistics, however, are limited to the kinds of languages requested and the collective amount of minutes used in providing interpretation services for a particular language. This data does not reflect the kinds of DLIR services provided or how frequently such services were used by LEP customers.

While certain DLIR divisions had already begun gathering more detailed information about the LEP customers they serve,¹ DLIR took the opportunity to articulate a more comprehensive approach.

DLIR's Research and Statistics Division ("R&S") had developed a comprehensive survey form designed to collect the information necessary to enable us to render meaningful access to LEP customers who use our services. This form seeks to collect, among other things, the following information: (1) the kinds of languages that LEP customers need translated; (2) the kinds of DLIR services are used by LEP customers; and (3) the frequency in which LEP customers use certain DLIR services.

To accommodate the Office of Language Access (OLA), R&S, redesigned the comprehensive survey form to include additional fields of information. The R&S shall be responsible for

¹For example, recent quarterly report indicates half of all DLIR departments have indeed encountered LEP customers while performing their duties (i.e., fourteen (10) of nineteen (20)). The most common languages encountered were Cantonese, Mandarin, Spanish and Ilocano. The two DLIR Departments that received the most requests for services by LEP customers were UI and ESARO (i.e., two-hundred forty-nine (249) and sixty-one (61) respectively).

establishing a procedure for each DLIR division to complete the form. (See Appendix "A"). R&S will compile the data on a semi-annual basis and provide a report to the department LEP Plan Coordinator.

II. COMPILATION OF COMPREHENSIVE LISTING MULTI-LINGUAL OF DLIR EMPLOYEES

To effectively service LEP customers, we must ascertain what language skills and resources DLIR may already have available through its employees.

As such, the Department has developed and will continue to maintain a log of its employees and the languages that he or she can read and/or speak. (See Appendix "B.")

The list includes information volunteered by DLIR personnel including the language or languages that the DLIR employee can speak and/or read, the degree of fluency in those identified languages, and the contact information for that DLIR employee. An employee on this list may be contacted when a LEP customer of DLIR services needs language assistance. The procedure to be followed when a DLIR employee is contacted to provide language assistance is contained in Section IV.1.

Although a DLIR employee may not be fluent in a particular language, depending on the circumstances, that employee's language skills may facilitate a certain comfort level that may contribute significantly to meeting a LEP customer's needs.

All DLIR employee volunteer interpreters shall be highly encouraged to complete training in interpretation techniques. The department shall coordinate and work with OLA to provide such trainings.

In the event that the DLIR requires additional personnel to provide language access to our LEP customers, as determined by the "Relevant Factors," described on page 2, the DLIR shall hire qualified personnel who are bilingual to fill existing, budgeted vacant public contact positions. The department shall develop procedures for hiring of these personnel.

III. NOTIFICATION OF INTERPRETATION/TRANSLATION SERVICES TO LEP CUSTOMERS

A. OFFICE NOTICE

To provide notice to the LEP population who may access DLIR services, we have taken the following steps. Based on (1) the existing data compiled by DLIR in providing telephone interpretation services to LEP customers since 1994; (2) data from the State of Hawai'i Data Book 2004; (3) survey responses of WSD employees about their experience in dealing with LEP customers and (4) discussions with Federal Immigration Court administrators in Honolulu and advocates of the interests of LEP persons statewide, we have compiled a list of twenty-four (24) languages that are likely to be the primary languages of LEP persons in Hawai'i who need access to DLIR services. These languages

include: Burmese, Cambodian, Cantonese, Chamorro, Chuukese, Ilocano, Japanese, Korean, Kosraean, Lao, Mandarin, Marshallese, Pohnpeian, Samoan, Spanish, Tagalog, Thai, Tongan, Vietnamese, Visayan, Yapese, Yapese (Outer Island) Russian and Hawaiian.

At least one 11" x 17" poster informing LEP customers that the DLIR provides free interpretation services shall be placed in a prominent place in all DLIR offices having contact with the public. An 8 1/2" x 11" copy of this poster initially developed by the Office of Community Services and updated with help from the University of Hawaii Center for Interpretation and Translation Studies and The Office of Language Access (OLA) is attached as Appendix "C."

B. NOTICE FOR REQUESTING ORAL INTERPRETATION TO VITAL DOCUMENTS

For those "vital documents" which do not meet the minimum threshold for translation into specific languages, the DLIR has developed a written notice that is attached to the document which states that oral interpretation would be provided free of charge upon request. The notice, which is translated into the twenty-one (24) languages identified above, invites a person who needs interpretation of a DLIR document to contact the LEP Plan Coordinator at 586-8687. (See Appendix "D.")

IV. PROVIDING INTERPRETATION/TRANSLATION SERVICES FOR LEP CUSTOMERS

In the course of serving our clients, situations may arise where LEP customers are unable to negotiate through DLIR programs without the assistance of interpreters in their preferred language.

To ensure that the inability to communicate in English does not deprive the public of rights and privileges, the DLIR will continue to provide an interpreter, at no cost to the client, for LEP customers pursuant to the following procedures.

A customer approaches a DLIR employee and appears to be asking for help, but has difficulty communicating what he or she needs.

What should the DLIR employee do?

The employee may be given a printed form (originated from the DLIR online registration service) by the customer who identifies the LEP person by name and the division services requested. The printed form indicates that the department had prior notification of the requested services and that the LEP person should be taken to the respective division/program office.

However, if no form is provided by the LEP person, the employee should proceed with the following:

A. IN PERSON INTERPRETER

The DLIR employee helping the customer should attempt to determine what language that person speaks. If the language cannot be readily determined, the DLIR employee will use the poster, attached as Appendix "C," to ascertain what language the customer speaks. The DLIR employee will allow the client to review the poster and encourage the person to point to the language in which he or she needs an interpreter. As a general rule, a competent,² in-person interpreter is preferred over a telephone interpreter.

Accordingly, if the client points to a language on the poster, then the DLIR employee will refer to the multi-lingual listing of all DLIR employees, attached as Appendix "B," and first contact an available interpreter within the DLIR employee's office. If no one is available to interpret within that office, then the DLIR employee will attempt to contact an interpreter in the proximity of his or her own office (i.e., on the same floor). If no one in the proximity of the office is available, then the DLIR employee will contact an interpreter within any office of the DLIR.

If no one is available within the DLIR, the employee assisting the customer will call "Language Line."

B. LANGUAGE LINE TELEPHONE INTERPRETERS

If an in-person interpreter within the DLIR cannot be located, the DLIR employee helping the customer will call "Language Line Services", by dialing 1-800-874-9426. The DLIR employee will then be prompted to enter the DLIR's 6-digit Client ID, and Division ID code. If the customer indicates that he or she speaks Spanish, the DLIR employee will press 1. Otherwise, the DLIR employee will press 2 and speak the name of the language when prompted.

The DLIR employee may then either press 0 or stay on the line for assistance.

The DLIR employee will then communicate the following information to the Language Line representative:

- 6-digit Client ID: 123456 (example)
- Organization Name: Hawaii Department of Labor and Industrial Relations
- Division ID Code: 6789 (example)

An interpreter will then be connected to the call.

The DLIR employee will (1) brief the interpreter about the situation by summarizing what the employee wishes to accomplish, and (2) convey any special instructions to the interpreter.³

The DLIR employee will then allow the client to speak to the interpreter.

² While it may be customary for LEP customers to bring their relatives or friends as interpreters, it is not appropriate to have relatives, friends, or minors serve as interpreters. They are often not formally trained in providing interpretation services and their experience as an interpreter tends to be limited.

³ If the speaker phone feature is available of the DLIR employee's phone, then the speaker phone feature should be used to allow both the LEP customer and the DLIR client to be on the line at the same time.

When the discussion between the client and the interpreter is finished, or when the DLIR employee is prompted, the DLIR employee will then speak to the interpreter to find out what the client needs.

The cost for oral interpretation services shall be borne by the division.

C. NO LANGUAGE LINE INTERPRETER AVAILABLE OR LANGUAGE NOT LISTED ON POSTER

If the Language Line representative indicates that Language Line does not have an available interpreter the language is listed on the LEP Plan poster (Appendix "C"),⁴ the DLIR employee may contact the interpreter services listed on Appendix "E" for assistance. Appendix "E" is a list of interpreter/translation services compiled by the LEP Plan Coordinator.

If the language that the client speaks is not listed on the LEP Plan poster (Appendix "C"), the DLIR employee assisting the LEP customer shall contact the LEP Plan Coordinator and proceed as instructed. The LEP Plan Coordinator shall contact the administrator of the division servicing the LEP customer, and the LEP Plan Coordinator and the administrator of the division shall decide whether to grant the request, in whole or in part, by using the four-factor analysis discussed in the "RELEVANT FACTORS" section above.

D. TELEPHONE CALLS

Should a DLIR employee receive a telephone call from a LEP customer or a representative of a LEP customer needing oral translation, the DLIR employee should encourage that LEP customer to come into the DLIR employee's office, so that oral interpretation services may be arranged as set forth above, or to register with the DLIR online services.

WRITTEN TRANSLATION

As discussed in Section III.B above, a notice regarding a request for written translation shall be attached to "vital documents" in order to provide meaningful access to LEP customers and/or sent with documents that division personnel have sufficient reason to believe are addressed to a LEP customer. A DLIR vital documents list has been identified and those documents that meet the minimum threshold shall be translated into specific languages.

For example, in matters concerning unemployment insurance, an unemployment insurance claim form is the kind of important document necessary for meaningful access to DLIR services.

As another example, during a WSD investigation, it becomes evident that the person

⁴ Should a LEP customer require sign language services, the DLIR employee may go directly to Appendix "E" and make the necessary arrangements for sign language interpreter services.

who filed a complaint for not being paid for the hours he worked has great difficulty understanding and speaking English. The notice regarding translation should accompany any decision concerning the investigation.

When a request for a written translation is received by the LEP Plan Coordinator, the

The LEP Plan Coordinator and the administrator of that particular division shall decide whether or not the request should be granted using the four-factor analysis discussed in the "RELEVANT FACTORS" section above. It is within the sound discretion of the LEP Plan Coordinator and the administrator to select a qualified translator.

V. DESIGNATION OF LEP PLAN COORDINATOR

The Wage Standards Administrator shall serve as the DLIR's LEP Plan Coordinator as of January 2012, taking over from Terry Visperas of Office of Community Services, who took over for Gary Noda, retired Equal Opportunity Officer. The LEP Coordinator will be primarily responsible for, among other things: (1) the overall implementation of the LEP Plan; (2) responding to any inquires or comments/complaints regarding the LEP Plan and its implementation; (3) making any revisions and modifications to the LEP Plan, as necessary; (4) training DLIR employees by providing the proper background necessary to implement the objectives of the LEP Plan; (5) serving as the primary contact for LEP customers who may need a written translation of important DLIR documents; and (6) coordinating efforts to implement, monitor, and evaluate, input aimed at improving the current LEP Plan.

VI. TRAINING DLIR STAFF

The LEP Plan Coordinator in coordination with The Office of Language Access (OLA) will be responsible for developing and implementing training for the DLIR staff. The primary purpose of the training is to impart the necessary background and understanding to implement the objectives of the LEP Plan. The training shall also address the vital documents survey, and competency, confidentiality, and impartiality issues regarding in-person interpreters within the DLIR.

VII. SEEKING STAKEHOLDERS' INPUT; REVIEW AND REVISION OF THE LEP PLAN

The DLIR, through the LEP Plan Coordinator, will actively seek input from groups that provide assistance to LEP customers, including those who advocate for the interests of immigrants, refugees and others who may be LEP consumers of DLIR services. All interested stakeholders are encouraged to contact the LEP Plan Coordinator directly.

This LEP Plan is a "*living document*" that shall be reviewed and revised in light of comments from LEP customers, their representatives, interested stakeholders, and DLIR staff. Such review and revision shall take place at least once every two years.

CONCLUSION

Through the enactment of this LEP Plan, the DLIR, in compliance with the mandates of Title VI of the Civil Rights Act of 1964, and the State of Hawai'i's Language Access Law (Act 290 SLH 2006 and Act 008 SLH 2008), has provided reasonable and meaningful access to LEP customers that seek DLIR services.

All DLIR divisions and administratively attached agencies shall comply with this LEP plan.

Dwight Takamine, Director
Department of Labor & Industrial Relations

Date

APPENDICES

- A. Offices of Language Access (OLA) Survey Form
- B. Multi-lingual Listing of DLIR Employees
- C. DLIR Language Poster
- D. Vital Documents Notice to LEP Customers
- E. Interpreter/Translation Services
- F. Division/Office Contacts for LEP

Appendix B – Multi-lingual Listing of DLIR Employees

FOR INTERNAL USE ONLY

Appendix D – Vital Documents Notice to LEP Customers

Appendix E – Interpreter/Translation Services

DLIR Language Assistance Resources

INTERPRETATION (ORAL)

Benjamen J. Baud (Chinese)		1(800) 343-3133	bcb@uphill.com
East-West Concepts	Janos Samu	1(800) 332-5220	website: Eastwestconcepts.com
Equality/Access to Courts	Court Interpreter List	539-4860	State: hawaii.us/jud/interpreters.pdg
Hawaii Interpreting Services	Sign Language	394-7706	interpretinghawaii.com
Herman Vergara, Ind.		1(702) 468-5311	Hermanvergaraz2008@gmail.com
Optimal Phone Interpreters	Michael Lane	1(866) 380-9410	optimalphoneinterpreters.com
Pacific Gateway Center	Phyu Hnin "Lilo" Aye	851-7000	website: Pacificgateway.org
Pacific Interpreters	Matthew Riley	1(800) 311-1232	website: Pacificinterpreters.com
Tele-Interpreter	Access Coded Needed	1(866) 874-3972	website: Teleinterpreters.com

INTERPRETATION (Written Only)

Via Language	Nancy Pautsch	1(800) 737-8481 X 1018	
Applesseed, Inc	Krisztina Samu	1 (609) 510-8253	

INTERPRETATION AND TRANSLATION

University of Hawaii, Center for Interpretation and Translation Studies	956-4421	website: Suezeng@hawaii.edu
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BRAILLE SERVICES

Library for the Blind & Physically Handicapped	733-8444	www.librarieshawaii.org/locations/oahu/lbph.htm
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LANGUAGE ASSISTANCE RESOURCES WEBSITES

Office of Language Access(OLA)	Hawaii.gov/labor.org	Applesseed, Inc	Applesseedinc.net
Transperfect	Transperfect.com	Corporate Translation Services, Inc.	Ctslanguelink.com
Language Access Line	LanguageLine.com		

Appendix F – Division LEP Contacts